



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-051, C-570-052]

#### **Certain Hardwood Plywood from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Scope Inquiry**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Pursuant to the Enforce and Protect Act of 2015 (EAPA), the Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP EAPA investigation concerning the antidumping duty (AD) and countervailing duty (CVD) orders on certain hardwood plywood from the People's Republic of China (China). In accordance with EAPA, Commerce intends to determine whether the merchandise subject to the referral is covered by the scope of these orders and promptly transmit its determination to CBP. Commerce is providing notice of the referral and inviting participation from interested parties.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Kabir Archuletta or Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-2593 or (202) 482-3053, respectively.

#### **SUPPLEMENTARY INFORMATION:**

## Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law, which contains Title IV-Prevention of Evasion of Antidumping and Countervailing Duty Orders (short title “Enforce and Protect Act of 2015” or “EAPA”) (Pub. L. 114-125, 130 Stat. 122, 155, Feb. 24, 2016). Effective August 22, 2016, section 421 of the EAPA added section 517 to the Tariff Act of 1930, as amended (the Act), which establishes a formal process for CBP to investigate allegations of the evasion of AD/CVD orders. Section 517(b)(4)(A) of the Act provides that if, during the course of an EAPA investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an AD order issued under section 736 of the Act or a CVD order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. The Act does not establish a deadline within which Commerce must issue its determination.

On September 16, 2019, Commerce received a covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7252<sup>1</sup> which concerns the *Orders*<sup>2</sup> on certain hardwood

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<sup>1</sup> See CBP’s Letter, “Scope Referral Request for Merchandise under EAPA Cons. Investigation 7252, Imported by Far East America, Inc., CIEL Group, American Pacific Plywood, Interglobal Forest, and Liberty Woods International, Inc., (Importers) and Concerning the Investigation of Evasion of the Antidumping and Countervailing Duty Orders on Hardwood Plywood from the People’s Republic of China (A-570-051 and C-570-052),” dated September 16, 2019. Commerce intends to make available this document and any supporting documents on Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS) within five days of publication of this notice.

<sup>2</sup> See *Certain Hardwood Plywood from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018); see also *Certain Hardwood*

plywood from China. Specifically, based on an allegation by Plywood Source, a company located in California, CBP has requested that Commerce issue a determination as to whether certain hardwood plywood products produced by Vietnam Finewood Company Limited (Finewood) from China-origin materials is covered merchandise subject to the *Orders*.

#### Notification to Interested Parties

Commerce is hereby notifying interested parties that it has received the covered merchandise referral referenced above, will begin a new segment of the proceeding by initiating a scope inquiry in accordance with 19 CFR 351.225(b), and based on our finding in that scope inquiry, intends to notify CBP as to whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act. Additionally, Commerce intends to provide interested parties with the opportunity to participate in this segment of the proceeding, including through the submission of comments, and, if appropriate, new factual information and verification. Specifically, Commerce will notify parties on the segment-specific service list for this segment of the proceeding of a schedule for comments. In addition, Commerce may request factual information from any person to assist in making its determination, including soliciting information directly from Finewood to conduct our analysis, and may verify submissions of factual information, if Commerce determines that such verification is appropriate. Commerce intends to issue a final determination within 120 days of the publication of this notice (this deadline may be extended if it is not practicable to complete the final determination within 120 days) and will promptly transmit its final determination to CBP in accordance with section 517(b)(4)(B) of the Act.

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*Plywood from the People's Republic of China: Countervailing Duty Order*, 83 FR 513 (January 4, 2018) (collectively, *Orders*).

In addition, Commerce may consider conducting a separate anticircumvention inquiry regarding this covered merchandise referral if parties submit the necessary information addressing the criteria for an anticircumvention inquiry in accordance with section 781 of the Act. Interested parties are requested to file such comments and information onto the record of this proceeding within 30 days of the publication of this notice in the *Federal Register*.

Interested parties that wish to participate in this segment of the proceeding, and receive notice of the final determination, must submit their letters of appearance as discussed below. Further, any party desiring access to business proprietary information in this segment of the proceeding must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Finally, we note that covered merchandise referrals constitute a new type of segment of a proceeding at Commerce. Commerce intends to develop its practice and procedures in this area as it gains more experience.

#### Scope of the *Orders on Hardwood Plywood from China*

For a complete description of the scope of the orders, *see* the appendix to this notice.

#### Filing Requirements

All submissions to Commerce must be filed electronically using ACCESS.<sup>3</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room

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<sup>3</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date of receipt by the applicable deadlines.

#### Letters of Appearance and APO

Interested parties that wish to participate in this segment of the proceeding and be added to the public service list for this segment of the proceeding must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the parties publicly identified by CBP in the covered merchandise referral (referenced above) are not required to submit a letter of appearance, and will be added to the public service list for this segment of the proceeding by Commerce.

Within 24 hours of this notice being signed, Commerce placed a request for an APO segment on the record<sup>4</sup> and established an APO segment for use in this proceeding. Commerce intends to place the business proprietary versions of the documents contained in the covered merchandise referral on the record of this proceeding in ACCESS within five days of publication of this notice.

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<sup>4</sup> See Memorandum, “Request for Establishment of Administrative Protective Order: Hardwood Plywood from the People’s Republic of China (A-570-051 and C-570-052).”

Interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to this segment of the proceeding, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

**Dated:** January 13, 2020.

**Jeffrey I. Kessler,**  
*Assistant Secretary*  
*for Enforcement and Compliance.*

## APPENDIX

### Scope of the *Orders*

The merchandise covered by the *Orders* is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2016 (including any revisions to that standard).

For purposes of the *Orders*, a “veneer” is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

All hardwood plywood is included within the scope of the *Orders* regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a “distressed” appearance through such methods as hand-scraping or wire brushing. All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.

All hardwood and decorative plywood is included within the scope of the *Orders*, without regard to dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope product.

The scope of the *Orders* excludes the following items: (1) structural plywood (also known as “industrial plywood” or “industrial panels”) that is manufactured to meet U.S. Products Standard PS 1-09, PS 2-09, or PS 2-10 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood; (2) products which have a face and back veneer of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People’s Republic of China, Import Administration, International Trade Administration. *See Multilayered Wood Flooring from the People’s Republic of China*, 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), and *Multilayered Wood Flooring from the People’s Republic of China*, 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by *Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012); (4) multilayered wood flooring with a face veneer of bamboo or composed entirely of bamboo; (5) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (6) products made entirely from bamboo and adhesives (also known as “solid bamboo”); and (7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an “Exterior” or “Exposure 1” bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m<sup>3</sup> permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

Excluded from the scope of the *Orders* are wooden furniture goods that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of the *Orders* is “ready to assemble” (RTA) furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes 1) all wooden components (in finished form) required to assemble a finished unit of furniture, 2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and 3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

Excluded from the scope of the *Orders* are kitchen cabinets that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of the *Orders* are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes 1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, 2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues)



required to assemble a finished unit of cabinetry, and 3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of the *Orders* are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

Excluded from the scope of the *Orders* are finished countertops that are imported in finished form and require no further finishing or manufacturing.

Excluded from the scope of the *Orders* are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4160; 4412.31.4180; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5265; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5700; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5115; and 4412.99.5710.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.10.9000; 4412.94.5100; 4412.94.9500; and 4412.99.9500. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.

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